

Supreme Court, U.S.  
FILED

05-699 SEP 22 2005

No. \_\_\_\_\_ OFFICE OF THE CLERK

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IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
KENDRA MUSGRAVE,

*Petitioner(s),*

☐ against ☐

LAWRENCE P. WOLF, ESQ.,

*Respondent(s)*

\_\_\_\_\_  
On Petition For Writ Of Certiorari to the  
United States Court of Appeals  
For the Second Circuit

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PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

Does state sovereignty and doctrines of collateral estoppel and res judicata, bar a federal court order for discovery on facts and issues established in a prior proceeding in a state court?

1. Is a federal discovery order that is not (a) "for good cause," or (b) fails to limit discovery to at least statutory boundaries of "relevance to claims or defense," "relevant to subject matter involved in the action," constitute an illegal search and seizure under the Fourth Amendment?
2. Did Plaintiff receive due process?
3. Are statutory damages under Fair Debt Collection Practices Act 15 U.S.C. §1692, et seq. per violation or per action?

**PARTIES TO THE PROCEEDING**

Petitioner, Kendra Musgrave, pro se.

Defendant, Lawrence P. Wolf, Esq.

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## OPINIONS BELOW

### STATEMENT OF JURISDICTION

Jurisdiction is pursuant to 28 USC §1251(1).

### CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution: Article 4 Section 1, Fourth Amendment, Fifth Amendment, Seventh Amendment, Fourteenth Amendment, 15 U.S.C. §1692, et seq., 15 U.S.C. §1692k(c); Federal Rules of Civil Procedure Rule 5(d), Rule 8(c), Rule 12(a)(1)(A), Rule 26(b)(1), Rule 26(b)(2), Rule 26(f)(2), Rule 56(c); Federal Rules of Appellate Procedure Rule 4(a)(1)(A), United States District Court, Eastern District Local Rule 1.3

### STATEMENT OF THE CASE

After Lawrence P. Defendant, Esq. altered a \$9,855.18 money judgment rendered without trial by hearing officer Maria Milin in Housing Part of the Civil Court of the City and County of New York County ("Housing Part") under L&T Index No. 83622/00 ("NYC 83622/00") against one Dr. Margareta Griesz, to include Kendra Musgrave. The judgment was never served, not even to Kendra Musgrave's bank, where Defendant, by issuance of his own subpoena the restrained for seven months Kendra Musgrave's bank accounts, before such accounts were levied by City Marshal Martin Bienstock. The monies therefrom were received by Wembly Management, a non-existent entity under New York law, for the alleged debt of one Dr. Margareta Griesz-Brisson.

During all such time and thereafter Kendra Musgrave was denied Housing Part file for NYC 83622/00.

Kendra Musgrave filed order to show cause under opening NYC 83622/00 Civil Court of the City and County of New York ("Civil Court") to for the release of her bank account, all funds restored, and all fees incurred as a result, *inter alia*. The matter was referred to Civil Court of the City and County of New York ("Civil Court") to be determined by a judge as is required by Constitution Seventh Amendment.

Kendra Musgrave, was subsequently sued by Lawrence P. Wolf, Esq. on behalf of alleged judgment creditors in New York County L&T

Index No. 91440 02 ("NYC 91440 02), which was immediately dismissed with prejudice as against Kendra Musgrave for lack of jurisdiction.

Citing that Defendant's actions were taken "without legal basis," Kendra Musgrave's order to show cause was granted in its entirety by Hon. Joan Kenney of New York City Civil Court, New York County ("NYCCC").

Three months later, Kendra Musgrave filed motion for contempt in NYCCC under NYC 83622/00.

Without Defendant continuing to defy NYCCC Order, on May 16, 2003 Kendra Musgrave, (pro-se) ("Plaintiff") filed in the United States District Court, Eastern District of New York ("EDNY"), action under Fair Debt Collection Practices Act (15 U.S.C. §1692, et seq.) ("FDCPA") 03 CV 2511 against Lawrence P. Defendant, ("Defendant") on the basis that the actions already established in NYCCC and deemed by that court to be without "legal basis," also violated FDCPA. In opening paragraph IV "It is respectfully requested in all causes of action arising out of FDCPA in the immediate proceeding, the Court take judicial notice of Exhibit A, B, C and any and all subsequent papers thereto of New York City Civil Action 83622/00."

The federal court failed to issue Plaintiff a summons. Housing Part Hearing Officer Inez Hoyos then enforced judgment she rendered against Dr. Griesz-Brisson of now \$20,448.355 against Kendra Musgrave. (See Musgrave v. Hoyos, U.S. Supreme Court 04-1582)

Service was deemed valid in FDCPA action 03 CV 2511. Defendant's Answer was due August 25, 2003. When Plaintiff had not been served with Answer and did not find one in EDNY's file in this action as of September 5, 2003, Plaintiff filed a motion for summary judgment or in the alternative a default judgment, September 5, 2003.

An initial conference, was then ordered by Magistrate Lois Bloom, of the United States District Court, Eastern District of New York ("Magistrate").

On October 7, 2003, NYCCC Defendant in Contempt, citing he had "engaged in the sharp practice of law."

Attorney for Defendant, Robert F. Moroco, Esq., was not admitted to the Eastern District before he appeared on October 8, 2003, as

is required by Local Rule 1.3, and to date, as far as is known, is still not admitted to the Eastern District Court.

Without prompting from either Plaintiff or Defendant, the Court below told Plaintiff (All quotes are cited from transcript by page number and line in Appellant's joint appendix Second Circuit):

COURT: "...This Court does not sit as an appellate court over the state courts." (A 29, Lines 21-22). The Court below also told her: "You've challenged that through the state court." (A 30, Lines 1-2). "But, again, Plaintiff, I want you to be very clear. The amount of litigation that you have gone through in the state courts is not going to be reviewed by this Court" and "There is no jurisdiction to review." (A 30, Lines 12-17);

COURT: "Moreover, the Court is deprived of jurisdiction over state court actions, where what you're seeking to do is overturn a state court matter, under the Rooker Feldman doctrine."

PLAINTIFF: "That's not what I'm doing."

COURT: "Rooker Feldman provides that the federal courts may not reach issues which deal with claims that have already been litigated, albeit unsuccessfully, in the state court. So again, this Court is not going to touch whether or not the state court did this right." (A 43, Lines 16-25).

Court also stated "for some reason which I'm not clear, you filed a motion for a default judgment..." then ordered deposition.

PLAINTIFF: "In order to take a deposition, they have to file an answer, in accordance with federal law. I was never served with an answer.

COURT: "Ma'am, you are dealing with a federal court, now, I don't know where you've been before, but I am telling you, their answer is filed." (A 33, Lines 9-13).

In A-34-35, lines 25-13.

Plaintiff: "Can I see it, please, because by the Rules of Federal Procedure, it has to be served before it can be filed.

COURT: "Here it is, Ma'am?

Apparently, Plaintiff then failed to receive Defendant's Answer, asking again, "Can I look at that, please?" (A-35, line 4),

COURT: "It doesn't matter to me if you look at it or you don't look at it; it's still been received by the Court."

PLAINTIFF "Okay, but I don't have one and I didn't receive it in Colorado. This is somebody's sworn statement," referring to the sworn statement enclosed therewith that the Answer was served before it was filed with the district court.

The Court interrupts "That's exactly right. Can I have that back, now?"

Plaintiff finishes "Who should be cross-examined."

COURT: "No, you don't have the right - this is not a housing court, Ms. Musgrave, and I want you to be clear on this, okay? Your conduct up until this moment has been as if you're appearing in one of the state courts. You filed this case. This is your case.

You don't have the right to cross-examine the process server who says that they served by mail and give your address at 9985 Apple Tree Place, Thornton, Colorado. The answer is on file with the Court. It's been accepted. Your default judgment motion is not going to go anywhere...." (A 35, Lines 14-23)

COURT: "I will assume that Plaintiff will handle herself in a professional manner. She's clearly read the statutes. She just believes that she may be in a different type of forum, where it's a much more rough-and-tumble world than the federal court is use to.

Ms. Musgrave, I want you to be clear. Your actions up until this point have not impressed the Court whatsoever.